

§ 143.2

12 CFR Ch. I (1–1–14 Edition)

was received. If, within 30 days of receipt of notice, the OCC does not notify the association of its objection on the grounds set forth in paragraph (a) of this section, the association may change its title by amending its charter in accordance with §144.2(b) or §152.4 of this chapter and the amendment provisions of its charter, except that an association chartered as a Federal Savings and Loan Association may change its title to indicate that it is a Federal Savings Bank, and an association chartered as a Federal Savings Bank may change its title to indicate that it is a Federal Savings and Loan Association.

ORGANIZATION

§ 143.2 Application for permission to organize.

(a) *General.* Recommendations by employees of the OCC regarding applications for permission to organize a Federal savings association are privileged, confidential, and subject to part 4, subpart C of this chapter.

(b)–(c) [Reserved]

(d) *Public notice and inspection.* (1) The applicant must publish a public notice of the application to organize in accordance with the procedures specified in subpart B of part 116 of this chapter.

(2) Promptly after publication, the applicant(s) shall transmit copies of each notice and publisher's affidavit of publication in the same manner as the original filing.

(3) The OCC shall give notice of the application to the state official who supervises savings associations in the state in which the new association is to be located.

(4) Any person may inspect the application and all related communications at the address specified in 12 CFR 4.14(c) during regular business hours, unless such information is exempt from public disclosure.

(e) *Submission of comments.* Commenters may submit comments on the application in accordance with the procedures specified in subpart C of part 116 of this chapter.

(f) *Meetings.* The OCC may arrange a meeting in accordance with the proce-

dures in subpart D of part 116 of this chapter.

(g) *Approval.* (1) Factors that will be considered are:

(i) Whether the applicants are persons of good character and responsibility;

(ii) Whether a necessity exists for such association in the community to be served;

(iii) Whether there is a reasonable probability of the association's usefulness and success;

(iv) Whether the association can be established without undue injury to properly conducted existing local thrift and home financing institutions;

(v) Whether the association will perform a role of providing credit for housing consistent with safe and sound operation of a Federal savings association; and

(vi) Whether the factors set forth in §143.3 are met, in the case of an application that would result in the formation of a *de novo* association, as defined in §143.3(a).

(2) Approvals of applications will be conditioned on the following:

(i) Receipt by the OCC of written confirmation from the Federal Deposit Insurance Corporation that the accounts of the Federal savings association will be insured by the Federal Deposit Insurance Corporation;

(ii) A minimum amount of capital to be paid into the association's accounts prior to commencing business;

(iii) The submission of a statement that—

(A) The applicants have complied in all respects with the Act and these rules and regulations regarding organization of a Federal savings association;

(B) The applicants have incurred no expense in forming the association which is chargeable to it, and no such expense will be incurred;

(C) No funds have been collected on account of the association before the OCC's approval;

(D) An organization committee has been created (naming the committee and its officers);

(E) The committee will organize the association and serve as temporary officers of the association until officers are elected by the association's board

of directors under §143.5 of this part; and

(F) No funds will be accepted for deposit by the association until organization has been completed; and

(iv) The satisfaction of any other requirement the OCC may impose.

(h) *Alternative procedures for interim Federal savings associations.* (1) Applications for permission to organize an interim Federal savings association are not subject to paragraphs (d), (e), (f) or (g)(2) of this section.

(2) Approval of an application for permission to organize an interim Federal savings association shall be conditioned on approval by the OCC of an application to merge the interim Federal savings association and an existing insured stock association or on approval by the OCC of such other transaction which the interim was chartered to facilitate. In evaluating the application, the OCC will consider the purpose for which the association will be organized, the form of any proposed transactions involving the organizing association, the effect of the transactions on existing associations involved in the transactions, and the factors specified in §143.2(g)(1) to the extent relevant.

§ 143.3 *De novo applications for a Federal savings association charter.*

(a) *Definitions.* For purposes of this section, the term “*de novo* association” means any Federal savings association chartered by the OTS prior to July 21, 2011 or by the OCC, the business of which has not been conducted previously under any charter or conducted in the previous three years in substantially the same form as is proposed by the *de novo* association. A “*de novo* applicant” means any person or persons who apply to establish a *de novo* association.

(b) *Minimum initial capitalization.* (1) A *de novo* association must have at least two million dollars in initial capital stock (stock institutions) or initial pledged savings or cash (mutual institutions), except as provided in paragraph (b)(2) of this section. The minimum initial capitalization is the amount of proceeds net of all incurred and anticipated securities issuance expenses, organization expenses, pre-opening expenses, or any expenses paid

(or funds advanced) by organizers that are to be reimbursed from the proceeds of a securities offering. In securities offerings for a *de novo* association, all securities of a particular class in the initial offering shall be sold at the same price.

(2) On a case by case basis, the OCC may, for good cause, approve a *de novo* association that has less than two million dollars in initial capital or may require a *de novo* association to have more than two million dollars in initial capital.

(c) *Business and investment plans of de novo associations.* (1) To assist the OCC in making the determinations required under section 5(e) of the Home Owners’ Loan Act, a *de novo* applicant shall submit a business plan describing, for the first three years of operation of the *de novo* association, the major areas of operation, including:

(i) Lending, leasing and investment activity, including plans for meeting Qualified Thrift Lender requirements;

(ii) Deposit, savings and borrowing activity;

(iii) Interest-rate risk management;

(iv) Internal controls and procedures;

(v) Plans for meeting the credit needs of the proposed *de novo* association’s community (including low- and moderate-income neighborhoods);

(vi) Projected statements of condition;

(vii) Projected statements of operations; and

(viii) Any other information requested by the OCC.

(2) The business plan shall:

(i) Provide for the continuation or succession of competent management subject to the approval of the OCC;

(ii) Provide that any material change in, or deviation from, the business plan must receive the prior approval of the OCC;

(iii) Demonstrate the *de novo* association’s ability to maintain required minimum regulatory capital under 12 CFR parts 165 and 167 for the duration of the plan.

(d) *Composition of the board of directors.* (1) A majority of a *de novo* association’s board of directors must be representative of the state in which the savings association is located. The OCC generally will consider a director to be